

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 729 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

MANHARBHAI NATHUBHAI PATEL

Versus

V K GUPTA

Appearance:

1. Special Criminal Application No. 729 of 2003
MR TUSHAR MEHTA for Petitioner No. 1
MR PR ABICHANDANI, APP for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 09/12/2003

ORAL JUDGEMENT

Rule. Mr. P.R. Abichandani, Ld. APP waives

service of rule on behalf of respondents.

2. In this petition a grievance has been made that the persons mentioned as accused in the application which has been submitted to respondent no. 1 are seasoned criminals and they have committed acts of forgery of various documents. It is the say of the petitioner that the accused had gone to the extent of forging wills of several persons of the town with a view to illegally grab their property. It also appears that investigation on that line was carried out and the accused are now being prosecuted for committing forgery of wills, etc. of different persons. It is the say of the petitioner that in respect of earlier complaint, it was the Umra Police Station which has carried out the investigation, which appears to be partial and not in a straight forward manner and it was favouring the accused. The applicant, therefore, has made an application saying that the investigation in the subsequent case be given to any agency other than Umra Police Station.

2.1. Mr. P.R. Abichandani, Ld. APP appearing for the respondent - State has, after consulting the report of and remarks made by respondent no. 1 that the investigation has not yet commenced despite the fact that the complaint was lodged in the month of January 2003. It appears that the apprehension expressed by the applicant is not totally baseless or ill-founded. Even the office of the Commissioner has taken the application into consideration and has observed that the investigation could be entrusted to any other agency, but it would be appropriate if the Court passed such order as it would not be within his power to direct any investigation by the D.C.B. or any other suitable agency.

3. In view of the aforesaid circumstances, respondent no. 1 is directed to pass appropriate order entrusting the investigation to any agency other than Umra Police Station to register and investigate into the matter and if the commission of offence is disclosed, to submit charge-sheet before the appropriate Court. At this stage, Mr. Tushar Mehta, draws my attention to clause (B) of para. 8, which refers to initiation of departmental inquiry proceedings against the persons as ordered by the Government. However, that prayer does not fall within the purview of the business assigned to this Court and learned counsel may for that purpose file appropriate proceedings and obtain suitable order.

In view of the above, this petition is partly

allowed. Rule made absolute to the aforesaid extent.

[AKSHAY H. MEHTA, J.]

* Pansala.